

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

OPENPRINT LLC,  Plaintiff,  v.  PANASONICA CORPORATION OF NORTH AMERICA,  Defendant.	C.A. No. 17-1076-GMS
OPENPRINT LLC,  Plaintiff,  v.  HP, INC.,  Defendant.	C.A. No. 17-1077-GMS
OPENPRINT LLC,  Plaintiff,  v.  OKI DATA AMERICAS, INC.,  Defendant.	C.A. No. 17-1075-GMS

**SCHEDULING ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_ 201\_, the Court having conducted a Rule 16 Scheduling Conference pursuant to Local Rule 16.2(b) on \_\_\_\_\_, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a) Initial Disclosures.** Unless otherwise agreed to by the parties, they shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) on or before January 28, 2018 or 14 days after entry of the Scheduling Order, whichever is later.

2. **Joinder of other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before April 6, 2018.

3. **Reliance Upon Advice of Counsel.** Plaintiff has not asserted willfulness.

4. **Markman Claim Construction Hearing.** Two separate *Markman* claim construction hearings shall be held, one with Defendants Panasonic Corporation of North America and OKI Data Americas, Inc., and another with Defendant HP, Inc. Both *Markman* hearings are scheduled for a total of 4 hours with each side having 2 hours. The parties shall meet and confer regarding narrowing and reducing the number of claim construction issues, and decide the order of the *Markman* claim construction hearings.

On or before November 16, 2018, the parties shall submit a Final Joint Claim Chart which shall include citations to intrinsic evidence. The plaintiff shall submit to the court, a Joint Appendix of Intrinsic Evidence (the “Joint Appendix”) containing all intrinsic evidence relied upon in the claim construction briefing. A sample table of contents of the Joint Appendix can be located on this court’s website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). The Joint Appendix shall be filed on the same day as the answering claim construction briefs. The parties shall file opening claim construction briefs on December 11, 2018, and answering claim construction briefs on January 11, 2019. Briefing will be presented pursuant to the court’s Local Rules.

5. **Discovery.** All fact discovery in this case shall be initiated so that it will be completed on or before April 12, 2019. Opening expert reports on issues on which a party bears the burden of proof shall be served on or before April 19, 2019. Rebuttal expert reports shall be served on or

before May 17, 2019. Expert Discovery in this case shall be initiated so that it will be completed on or before July 26, 2019.

a. **Discovery and Scheduling Matters:** Should counsel find they are unable to resolve a discovery<sup>1</sup> or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **Joint Letter Agenda**, which is non-argumentative, not to exceed two (2) pages outlining the issue(s) in dispute.

A sample letter can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). After the parties have had three (3) discovery teleconferences, they will be required to file a joint letter showing good cause why the court should permit a fourth discovery teleconference. Should the court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

6. **Confidential Information and Papers filed under Seal.** Should counsel find it will be necessary to apply to the court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within ten (10) days from the date of this order.

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<sup>1</sup> Unless the court otherwise orders, should counsel be unable to agree on the discovery of paper and electronic documents, the court's "Default Standard for Discovery, Including Discovery of Electronically Stored Information" ("ESI") shall govern.

When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

**If after making a diligent effort the parties are unable to agree on the contents of the joint proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 5(a).**

**7. Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to the United States Magistrate Judge for the purpose of exploring the possibility of a settlement. The parties shall wait to be contacted by the assigned United States Magistrate Judge.

**8. Summary Judgment Motions.** Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief shall be no longer than five (5) pages and shall be filed with the Court no later than August 9, 2019. Answering letter briefs shall be no longer than five (5) pages and filed with the court no later than August 23, 2019. Reply letter briefs shall be no longer than three (3) pages and filed with the Court on or before August 30, 2019. If the Court determines that argument is necessary to assist in the resolution of any request to file summary judgment, it shall notify the parties of the date and time on which the Court will conduct a telephone conference to hear such argument. **Unless the Court directs otherwise, no letter requests to file a motion for summary judgment may be filed at a time before the dates set forth in paragraph 8.**

**9. Case Dispositive Motions:** To the extent permitted, all case or issue dispositive motions shall be served and filed within two weeks of the Court's decision to permit the filing of such motions. Briefing will be presented pursuant to the Court's Local Rules. The parties may agree on an alternative briefing schedule. Any such agreement shall be in writing and filed with the Court

for the Court's approval. Any request for extensions of time as set forth in this Scheduling Order **must** be accompanied by an explanation or your request will be denied.

10. **Applications by Motion.** Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed, via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

11. **Oral Argument.** If the Court believes that oral argument is necessary, the Court will schedule a hearing Pursuant to District of Delaware Local Rule 7.1.4.

12. **Pretrial Conference.** On February \_\_, 2020 beginning at 9:30 a.m., the Court will hold a Pretrial Conference, in Chambers for Jury trials and via telephone for Bench trials, with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). Thirty (30) days before the Joint Proposed Pretrial Order is due, plaintiff's counsel shall forward to defendant's counsel a draft of the pretrial order containing the information plaintiff proposes to include in the draft. Defendant's counsel shall, in turn, provide to plaintiff's counsel any comments on the plaintiff's draft, as well as the information defendant proposes to include in the proposed pretrial order. **Motions in limine**<sup>2</sup>: **NO MOTIONS IN LIMINE SHALL BE FILED**; instead, the parties shall be prepared to address their evidentiary issues at the Pretrial Conference and during trial (before and after the trial day). The parties shall file with the court the **joint** Proposed Final Pretrial Order in accordance with the terms and with the information required by the form of

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<sup>2</sup> The parties should simply list, in an Exhibit to be attached to the Pretrial order, the issues under a heading such as "Plaintiff's [name of party] List of Evidentiary Issues It Intends To Raise."

Final Pretrial Order, which can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov) on or before January \_\_, 2020.

13. **Trial.** This matter is scheduled for a day (jury or bench) jury trial beginning at 9:30 a.m. on March \_\_, 2020.

14. **Scheduling:** The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel is on the line for purposes of selecting a new date.

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**The Honorable Gregory M. Sleet**  
**United States District Court Judge**

**EXHIBIT A**

**PROPOSED DEADLINES**

<b><u>Event</u></b>	<b><u>Deadline</u></b>
<b>FACT DISCOVERY &amp; CONTENTIONS</b>	
FRCP 26(a) Initial Disclosures	1/28/2018 or 14 days after entry of the Scheduling Order, whichever is later.
Plaintiffs identify accused products	30 days after Rule 26(a) initial disclosures or entry of Scheduling Order, whichever is later
Deadline for Plaintiffs to produce to Defendants an initial infringement claim chart including identification of accused products and asserted claims	30 days after identification of accused products
Deadline for Defendants to produce to Plaintiffs their initial invalidity contentions and the related invalidating references	60 days after production of initial infringement claim chart
Parties shall exchange a list of proposed terms for construction	10/5/2018
Parties shall exchange proposed constructions	10/26/2018
Parties shall submit Final Joint Claim Chart	11/16/2018
Deadline to Amend the Pleadings	04/06/2018
Deadline to Join Additional Parties	04/06/2018
Reliance on opinion of counsel deadline	6/11/2018
Deadline to produce opinions of counsel	6/19/2018
Joint Appendix to be provided by Plaintiff	12/4/2018
Opening claim construction briefs	12/11/2018
Answering claim construction briefs	1/11/2019
Plaintiffs shall submit Joint Appendix of Intrinsic Evidence	1/11/2019
First Markman Hearing	2/___/2019
Second Markman Hearing	2/___/2019

Substantial Completion of Document Production in response to document requests	1/11/2019
Completion of Fact Discovery	4/12/2019
<b>EXPERT DISCOVERY</b>	
Opening expert reports on which a party bears the burden of proof	4/19/2019
Rebuttal expert reports and opening expert reports concerning secondary considerations of non-obviousness	5/17/2019
Reply expert reports and rebuttal expert reports concerning secondary considerations of non-obviousness	6/14/2019
Completion of expert discovery	7/26/2019
<b>SUMMARY JUDGMENT LETTER BRIEFING</b>	
Opening letter briefs	8/9/2019
Responsive letter briefs	8/23/2019
Reply letter briefs	08/30/2019
<b>TRIAL PHASE</b>	
Submission of Joint Proposed Pretrial Order	January __, 2020
Pretrial Conference	February __, 2020
First Trial begins	March __ 2020
Second Trial begins	TBD
Third Trial begins	TBD